PENLINK

New Hanover County Contract #21-0081

Quote

Company Address	5944 Vandervoort Dr. Lincoln, Nebraska 68516 United States	Quote Number	00009943
		Created Date	7/21/2020
New Hanover County Sheriff - Wilmington (NC) United States		United States	
Prepared By	Jeff McMullan	Expiration Date	8/31/2020
Freight Terms	FOB Origin	Payment Terms	Net 30

Quantity	Item Description	Sales Price	Total Price
1.00	ADD-ON: PEN-PROXY FOR PLX SOFTWARE LICENSE - INTERCEPT EDITION (TELEPHONE) Connect to third-party data providers and i1020 link, set, and manage real-time alerts.	$0.00	$0.00
1.00	LINCOLN ADMINISTRATIVE SOFTWARE (TELEPHONE)	$0.00	$0.00
1.00	PENPOINT 1-PACK PLX's mobile app maps target location data on iOS and Andriod devices: 1-year Subscription	$865.58	$865.58
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1.00	PLX SOFTWARE LICENSE - INTERCEPT EDITION (IP) to be combined with INTERCEPT EDITION (TELEPHONE) Intercept internet protocol data to include pens, log-in session data, social media, email, and other IP sources.	$0.00	$0.00
1.00	PLX SOFTWARE LICENSE - INTERCEPT EDITION (PHONE) Intercept, analyze, and map real-time telco pen register data. Autoload, analyze, and map CDRs, cell tower data, and cell phone forensics data.	$0.00	$0.00
1.00	PLX SOFTWARE MAINTENANCE AND SUPPORT - STANDARD	$5,387.50	$5,387.50

Subtotal	$7,118.66
Discount	$0.00
Tax	$377.13
Total Price	$7,495.79

Period of Performance: 12/1/2019 - 8/31/2021

Pen-Link, Ltd, Maintenance and Support Terms and Conditions

Pen-Link, Ltd is a U.S. - Based Small Business **DUNS: 195956636 / TIN: 47-0707585 / CAGE: 0K6H9**

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PENLINK

Quote

1. Terminology

The following terms and definitions apply throughout this document.

1.1. Pen-Link Software. Pen-Link Software is software developed and manufactured by Pen-Link, Ltd.
1.2. Pen-Link Customer (also "Customer"). A Pen-Link Customer, or Customer, is any agency or other entity that has one or more current, valid Licenses for Pen-Link Software purchased from or through Pen-Link, Ltd.
Pen-Link, Ltd, Maintenance and Support Terms and Conditions
1.3. Basic Technical Support Package. Entitles our customers to normal business hours telephone support at Pen-Link, Ltd.s published number and/or assistance via e-mail.
1.4. Standard Maintenance and Support. Standard Maintenance is a Maintenance option that includes Software Updates, Software Upgrades, and Basic Technical Support as defined herein.
1.5. Premium Maintenance and Support. Premium Maintenance is a Maintenance option that includes Software Updates, Software Upgrades, and Premium Technical Support as defined herein.
1.6. Software Update. A Software Update is an enhancement including additions, changes, and bug fixes to Pen-Link Software that is already in the applicable commercial market. Software Updates occur within the same major version number of an existing software product. For example, replacing Pen-Link v8.1.29.0 with Pen-Link v8.1.30.0 would constitute a Software Update. Such an update is often referred to as a New Build of the Pen-Link Software.
1.7. Software Upgrade. A Software Upgrade is the replacement of an older major version of an existing Pen-Link Software product or products, with a newer major version of a Pen-Link Software product or products, to the extent required to maintain the same operational functionality that was supported by the Pen-Link Software prior to the upgrade. For example, upgrading from Pen-Link Version 7 to Pen-Link Version 8 (where 8 is the newer major version) would constitute a Software Upgrade, so long as the installation of the newer version of the PenLink Software supported at least the same operational functionality that the Customer had under Pen-Link version 7. Upgrades do not apply to new software products that Pen-Link, Ltd. may release to the commercial market from time to time in the future.
1.8. Basic Technical Support (also "Basic Support"). Basic Technical Support is a Support option that includes telephone-based Technical Support for the Pen-Link Software licensed by the Customer. Basic Technical Support also includes assistance via email or other automated processes such that Pen-Link, Ltd. may deem fit to offer. Basic Technical Support may be obtained by contacting Pen-Link, Ltd. via its published, main telephone number (currently 402-421-8857), its general support email account (support@penlink.com), or its World Wide Web site (www.penlink.com). Basic Technical Support is available Monday through Friday, from 8:00 AM to 5:00 PM Central time, except for holidays.
1.9. Premium Technical Support (also "Premium Support"). Premium Technical Support is a Support option that includes all of the support services offered with Basic Technical Support (Section 1.8), plus Emergency After-Hours support for live communication interception and collection operations. Emergency After-Hours support services may be accessed through methods, including telephone access, that are provided to the customer at the time of purchase. Emergency After-Hours support services are available Monday through Friday, from 5:01 PM - 7:59 AM Central time and all day Saturday & Sunday, including holidays.
1.10. Maintenance and Support Agreement ("Agreement"). This Maintenance and Support Agreement is the Agreement between Pen-Link, Ltd. and the Customer regarding the terms and conditions under which the Maintenance and Support Services described in this document are purchased and provided.

2. Software

2.1. Maintenance is an optional service offered by Pen-Link Ltd. to augment a purchase of Pen-Link Software. Maintenance may be purchased by a Pen-Link Customer along with, or subsequent to, the purchase of Pen-Link Software.
2.2. Maintenance is offered only pursuant to a Maintenance and Support Agreement between the Customer and Pen-Link, Ltd.
2.3. Pen-Link, Ltd. offers two levels of Maintenance that a Customer may purchase: Standard Maintenance and Premium Maintenance, as defined in Sections 1.4 and 1.5 respectively.
2.4. Maintenance applies only to software developed and manufactured by Pen-Link, Ltd. Maintenance does not apply to software developed and manufactured by companies other than Pen-Link, Ltd. Unless otherwise specified in a separate, written agreement between Pen-Link, Ltd. and the Customer, to which Pen-Link, Ltd. is a signatory party, Maintenance does not include updates, upgrades, or bug fixes to, or new releases of, any third-party software or hardware purchased through Pen-Link, Ltd. or with the assistance of Pen-Link, Ltd. Support for third party software and hardware products bundled with Pen-Link, Ltd. licensed Pen-Link Software is available only according to the third-party manufacturer's support policies.
2.5. All Maintenance deliveries are subject to the terms and conditions of the applicable End User License Agreement EULA for the Licensed Software.

3. Technical Support ("Support")

3.1. Technical Support Support is an optional service offered by Pen-Link, Ltd. to support a Customer in the authorized use of licensed PenLink Software.
3.2. Support is offered only pursuant to a Maintenance and Support Agreement between the Customer and Pen-Link, Ltd.

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3.3. Pen-Link, Ltd. offers two levels of Technical Support: Basic Technical Support and Premium Technical Support, as defined in Sections 1.8 and 1.9 respectively.
3.4. Pen-Link, Ltd. will make every reasonable attempt to answer a Customers Support questions and address a Customer s Support concerns. However, Support is offered on a good faith, diligent effort basis only, and Pen-Link, Ltd. may not be able to resolve every request for Support.
3.5. Technical Support is provided for ongoing, operational use of the licensed Pen-Link Software; Support is not intended to be a substitute for training or professional services necessary for the implementation or system redesign of the licensed Pen-Link Software, which are outside the scope of this agreement. All such services, including without limitation, training, on-site assistance, consultation, custom programming and other software customizations, network design, and database and network administration, may be provided pursuant to separate agreements with and by Pen-Link, Ltd.
3.6. Unless otherwise specified in a separate, written agreement between Pen-Link, Ltd. and the Customer, to which Pen-Link, Ltd. is a signatory party, Support is available only for the current and immediately preceding version of the licensed Pen-Link Software. Support for a previous version of Pen-Link Software is provided up to a maximum of eighteen (18) months after the release of the current version of software, provided that the Customer and Pen-Link, Ltd. are parties to a current Maintenance and Support Agreement.
3.7. Unless otherwise specified in a separate, written agreement between Pen-Link, Ltd. and the Customer, to which Pen-Link, Ltd. is a signatory party, Support does not include any of the following:
3.7.1. Support for database products or so-called DBMS or Database Management Systems, including without limitations, setup and alteration and/or configuration of such products, and resolution of errors related directly to such products.
3.7.2. Resolving network, workstation, or other environmental errors not directly related to the licensed Pen-Link Software. 3.7.3. Support for any licensed Pen-Link Software working on or with any version of any database, Database Management System, operating system, or other hardware or software product or system that is not specifically identified as interoperable and compatible with the specific version of the license Pen-Link Software being used.
3.7.4. Support for any alpha, beta, or other preproduction release of any software, including Pen-Link Software. 3.7.5. Support for any changes to Pen-Link Software made outside of the product s scope by a customer or by any third party. 3.7.6. Support for any licensed Pen-Link Software that is used for a purpose, or in a manner, for which it was not designed.

4. Terms and Conditions

4.1. Maintenance and Support Agreements are options made available by Pen-Link, Ltd. for a Customer to purchase.
4.2. Maintenance and Support Agreements are offered on an annual basis.
4.3. Unless otherwise specified in a separate, written agreement between Pen-Link, Ltd. and the Customer, to which Pen-Link, Ltd. is a signatory party, Maintenance and Support Agreements will renew automatically at the end of each annual term, provided that the Customer pays the applicable renewal fees.
4.4. Unless otherwise specified in a separate, written agreement between Pen-Link, Ltd. and the Customer, to which Pen-Link, Ltd. is a signatory party, a Customer s Maintenance and Support Agreement is to be paid at the start of each annual term.
4.5. Payment. The Customer will be invoiced prior to any annual Maintenance and Support term (initial or renewal terms). The Customer agrees to make payment to Pen-Link, Ltd. no later than thirty (30) days from the date of the invoice, unless otherwise agreed upon in writing. Unless otherwise instructed, the Customer will make payment directly to Pen-Link, Ltd.
4.6. Pen-Link, Ltd.s obligations hereunder are subject to the Customer s timely payment for Maintenance and Support. Failure of the Customer to pay fees in a timely manner for any term of Maintenance and Support may, at the sole discretion of Pen-Link, Ltd., result in the termination or suspension of Maintenance and Support services.
4.7. Lapses and Reinstatement. If a Customer s Maintenance and Support agreement terminates as a result of expiration or otherwise pursuant to this Agreement, and the Customer decides to reinstate the Agreement, the Customer will be required to pay the applicable Maintenance and Support fees for the lapsed period (the time elapsed between the Agreement expiring and subsequently being reinstated), plus a reinstatement fee equal to 10% of the fees for the lapsed period.
4.8. Taxes. The Customer is responsible for payment of all applicable taxes, value added taxes, or other taxes (however designated) related to the Maintenance and Support of the Licensed Software, unless otherwise agreed upon and stated in writing.
4.9. This Agreement will automatically terminate for each Licensed Pen-Link Software product upon termination of the EULA corresponding to such Pen-Link Software product.
4.10. The Customer may terminate this Agreement for Convenience, but the Customer will not be entitled to a refund of any paid fees in such an event.
4.11. Additional Orders. Orders by the Customer for additional Pen-Link Software products or additional licenses of Pen-Link Software products will increase the Customers Maintenance and Support fees under this Agreement.
4.12. We reserve the right to impose a convenience fee of 2.0% for credit card processing on amounts over $10,000.

5. Warranty and Liability Disclaimer

5.1. Pen-Link, Ltd. warrants that the Maintenance and Support services provided to the Customer under this Agreement shall be performed with due care, and in a professional and workmanlike manner. Pen-Link, Ltd. does not otherwise warrant the accuracy or completeness of any services provided pursuant this Agreement. PEN-LINK, LTD. DISCLAIMS ANY AND ALL OTHER

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WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE, IN CONNECTION WITH THE SUBJECT OF THIS AGREEMENT. IN NO EVENT, UNDER ANY THEORY OF LAW, SHALL EITHER PARTY AND/OR ITS AFFILIATES BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR LOST PROFITS AND/OR ITS AFFILIATES ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. PEN-LINK, LTD. S LIABILITY UNDER THIS AGREEMENT SHALL NOT EXCEED THE PREPAID AND UNUSED PORTION OF THE CUSTOMER S MAINTENANCE AND SUPPORT FEES PAID TO PEN-LINK, LTD. PEN-LINK, LTD. SPECIFICALLY DISCLAIMS ALL RESPONSIBILITY FOR ANY SERVICES PROVIDED BY ANY PARTNER OR ANY OTHER THIRD PARTY.

5.2. It is the sole responsibility of the Customer to make and maintain adequate backup copies of software and data.

5.3. In no event will Pen-Link, Ltd. be responsible for lost data.

6. Miscellaneous

6.1. Entire Agreement. This Agreement constitutes the entire Agreement between the Customer and Pen-Link, Ltd. related to the subject matter hereof, and additions or modifications shall be binding upon the parties only if the same shall be in writing and duly executed by the Customer and a duly authorized officer of Pen-Link, Ltd. The Licensed Pen-Link Software is licensed under a separate End User License Agreement (EULA) and professional services, if any, are provided under a separate professional services agreement. The terms and conditions of any Customer purchase order are only binding on Pen-Link, Ltd. if they are agreed to in writing by an authorized Pen-Link, Ltd. officer and in a document other than the purchase order.

6.2. Waiver. The waiver or failure of either party to exercise in any respect any right shall not be deemed a waiver of any further or future right.

6.3. Assignment. The Customer may assign this Agreement only in connection with a proper and valid assignment of the corresponding EULA to the extent permitted there under; provided that the Customer gives written notice of such assignment to Pen-Link, Ltd. Pen-Link, Ltd. may freely assign this Agreement to a purchaser of that portion of Pen-Link Ltd. s business to which this Agreement relates, to the surviving corporation in the event of a merger, and to any affiliate or third-party whom Pen-Link authorizes to provide Maintenance and Support for the Licensed Pen-Link Software of the nature contemplated hereby.

New Hanover County digital signature page attached hereto and incorporated herein by reference.

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Signature Page

NEW HANOVER COUNTY

Timothy C Bunn, Deputy

County Manager

ATTEST: Deborah Lynn

Sign

Clerk to the Board , Deputy

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Lisa Wurtzbacher

County Finance Officer

Approved as to form

Kemp Burpeau, Deputy

County Attorney